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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,779	12/24/2003	Eric B. Rosen	58452.0001	9462
24629	7590	04/04/2005	EXAMINER	
DARYL W SCHNURR MILLER THOMSON LLP PO BOX 578 SUITE 700, 22 FREDERICK STREET KITCHENER, ON N2G 4A2 CANADA				LAWRENCE JR, FRANK M
ART UNIT		PAPER NUMBER		
		1724		
DATE MAILED: 04/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/743,779	ROSEN, ERIC B.
	Examiner Frank M. Lawrence	Art Unit 1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is FINAL. 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-18 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Priority*

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

This application is claiming the benefit of a prior filed nonprovisional application under 35 U.S.C. 120, 121, or 365(c). Copendency between the current application and the prior application is required.

### *Double Patenting*

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-18 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-18 of copending Application No. 10/742,849. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6-10, 12, 14-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Roe (3,645,070).
5. Roe '070 teaches a gas washer system comprising a cylindrical housing (14) with an inlet (22) and outlet (24), a passage extending between the inlet and outlet, a plurality of nozzles (52) for spraying water into the passage near the inlet, a fan (88) in the passage to cause air flow through the housing, a centrally mounted rotor (62) having vanes (74) extending substantially parallel to the rotation of the rotor for removing moisture and particulates from the air flow, and a drain (50) for liquid in the housing (col. 2, line 18 to col. 3, line 37), wherein the air changes direction from horizontal and downward at the outside of the housing to vertical in the center of the housing at the rotor (see figures).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roe '070 in view of Jamison et al. (3,149,935).

8. Roe '070 discloses all of the limitations of the claim except that a section of the passage between the change of direction and outlet is formed by a cylindrical wall that is concentrically mounted within the housing. Jamison et al. '935 disclose a gas washer comprising a liquid spray distributing rotor (60), an inlet (75), a baffle wall (72) causing a change of flow direction, an outlet (15), and a cylindrical wall supporting baffles (80) between the change of direction and the

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outlet (see figure 1, col. 3, lines 50-62). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Roe '070 by installing the cylindrical wall supporting baffles between the rotor and the outlet in order to provide a means for further removing entrained moisture or droplets from the air.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional references listed on the attached PTO-892 form disclose air treatment devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is 571-272-1161. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank M. Lawrence  
Primary Examiner  
Art Unit 1724

*Frank Lawrence 3-30-05*

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